

## § 436.40

### Subpart C—Agency Procurement of Energy Efficient Products

SOURCE: 74 FR 10835, Mar. 13, 2009, unless otherwise noted.

#### § 436.40 Purpose and scope.

This subpart provides guidance to promote the procurement of energy efficient products by Federal agencies and promote procurement practices which facilitate the procurement of energy efficient products, consistent with the requirements in section 553 of the National Energy Conservation Policy Act. (42 U.S.C. 8259b)

#### § 436.41 Definitions.

*Agency* means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

- (1) The Congress, and agencies thereof;
- (2) The courts of the United States;
- (3) The governments of the territories or possessions of the United States; or
- (4) The government of the District of Columbia.

*Covered product* means a product that is of a category for which an ENERGY STAR qualification or FEMP designation is established.

*ENERGY STAR qualified product* means a product that is rated for energy efficiency under an ENERGY STAR program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a).

*FEMP designated product* means a product that is designated under the Federal Energy Management Program as being among the highest 25 percent of equivalent products for energy efficiency.

#### § 436.42 Evaluation of Life-Cycle Cost Effectiveness.

For the purpose of compliance with section 553 of the National Energy Conservation Policy Act:

(a) ENERGY STAR qualified and FEMP designated products may be assumed to be life-cycle cost-effective.

(b) In making a determination that a covered product is not life-cycle cost-effective, an agency should rely on the

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life-cycle cost analysis method in part 436, subpart A, of title 10 of the Code of Federal Regulations.

#### § 436.43 Procurement planning.

(a) Agencies should consider the procurement planning requirements of section 553 of the National Energy Conservation Policy Act as applying to:

(1) Design, design/build, renovation, retrofit and services contracts; facility maintenance and operations contracts;

(2) Energy savings performance contracts and utility energy service contracts;

(3) If applicable, lease agreements for buildings or equipment, including build-to-lease contracts;

(b) Agencies should require the procurement of ENERGY STAR and FEMP designated products in new service contracts and other existing service contracts as they are recompeteted and should, to the extent possible, incorporate such requirements and preferences into existing contracts as they are modified or extended through options.

(c) Agencies should include criteria for energy efficiency that are consistent with the criteria used for rating qualified products in the factors for the evaluation of:

(1) Offers received for procurements involving covered products, and

(2) Offers received for construction, renovation, and services contracts that include provisions for covered products.

(d) Agencies should notify their vendors of the Federal requirements for energy efficient purchasing.

### Subparts D–E [Reserved]

### Subpart F—Guidelines for General Operations Plans

AUTHORITY: Energy Policy and Conservation Act, as amended, 42 U.S.C. 6361; Executive Order 11912, as amended, 42 FR 37523 (July 20, 1977); National Energy Conservation Policy Act, title V, part 3, 42 U.S.C. 8251 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7254.

SOURCE: 45 FR 44561, July 1, 1980, unless otherwise noted.